IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 291 of 2002
in
SPECIAL CIVIL APPLICATION No 2210 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUPERINTENDING ENGINEER
Versus
PD KAPADI

Appearance:
1. LETTERS PATENT APPEAL No. 291 of 2002
MR SP HASURKAR for Appellant No.
MR DP JOSHI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 15/10/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

The appellant-Gujarat Electricity Board has challenged in this appeal the judgment and order dated 9.8.2001 passed by the learned Single Judge of this court (Coram : Kundan Singh, J.) in Special Civil Application No.2210/94 whereby the learned Single Judge allowed the writ petition and quashed and set aside the impugned order of termination of the respondent-original petitioner and directed the appellant-Board to reinstate him with continuity of service and to pay 25% back wages with all other consequential benefits of service.

It was pointed out by learned counsel Mr.Joshi for the respondent-original petitioner that other similarly situated persons, whose services were terminated, succeeded before the Labour Court and in compliance of that order they were taken back in service, but not respondent-workman, whose case was not considered because he had approached this court directly by way of writ petition.

In view of the above, learned counsel Mr.Hasurkar conceded that the respondent-workman is required to be reinstated in service, but his only anxiety was that any observation made by the learned Single Judge may not come in their way in future. This apprehension expressed by Mr.Hasurkar can be taken care of by observing that without going into the legality and validity of the order passed by the learned Single Judge, this appeal is required to be dismissed in view of the fact that other similarly situated persons have already reinstated by the appellant-Board and, therefore, this cannot become precedent.

The appellant-Board shall now reinstate the respondent-petitioner in service latest by 1.1.2004 and pay the arrears of back wages.

With these observations and directions, this appeal is dismissed.

Civil Application No.4026/02 is dismissed as the main Letters Patent Appeal is dismissed.

(B.J.Shethna, J.)

(Ravi R. Tripathi, J.)

*Pvv